

8th All India meet of State Legal Services Authorities

(March 13, 2010 – Chandigarh)

Address by Hon'ble Mr. K.G. Balakrishnan, Chief Justice of India

Justice Altamas Kabir,

Justice R.V Raveendran,

Justice Mukul Mudgal (Chief Justice) and

Esteemed colleagues in the High Court of Punjab and Haryana,

Representatives of the National Legal Service Authority (NALSA) and

State Legal Services Authorities,

And Ladies and Gentlemen,

I am grateful for the opportunity to speak here at the 8th All India Meet of State Legal Services Authorities. Even though the Legal Services Authorities at the National, State and District levels are a relatively recent creation in our legal system, efforts to provide legal aid can indeed be traced back to the period of colonial rule. After the enactment of our Constitution, the justice-delivery system took on the mantle of promoting values such as 'equal protection before the law' and non-discrimination on grounds of identity or social status. It is of course a truism that we are still pursuing these objectives by way of sustained efforts to improve access to justice for the marginalized sections of society. We must constantly remind ourselves of the fact that access to the judicial system is mostly seen as a function of the party's social status and economic capacity. The failure to change this social reality can have long term costs for the country. Hence, it is the 'equality of opportunity' in the sense of expanding access to independent and expeditious justice-delivery mechanisms which should be the guiding principle.

The beginnings of the modern legal aid movement in India had materialized in the 1950s and 1960s when efforts were made to ensure legal representation for indigent persons who were accused in criminal cases. These initiatives were led by State governments and were mostly dependent on the participation of practicing lawyers. However, the real impetus came with the publication of the 'National Juridicare Report' in 1978 which made several recommendations to give meaning to the constitutional command of ensuring legal aid for needy persons, as per Article 39A which had been inserted in 1976. This was followed by the establishment of the Committee for the Implementation of Legal Aid Schemes (CILAS) under the leadership of Justice P.N. Bhagwati. It was in pursuance of this body's recommendations that the Legal Services Authorities functioning at different levels were conceived of and the same found its way into legislation.

However, experiments with 'Lok Adalats' had already begun a few years before the enactment of the Legal Services Authorities Act. The first prominent Lok Adalats had been conducted in Gujarat in the early 1980's and they were supervised by sitting judges as well as practitioners. With the establishment and growth of the Legal Services Authorities, the volume of cases being heard by Lok Adalats has been progressively increasing. For many categories of disputes 'Lok Adalats' provide a far more accessible forum where the interests of both parties can be accounted for instead of the 'winner takes all' orientation of civil litigation. Subsequent to the amendment of the

Code of Civil Procedure in 2002, Lok Adalats are also serving as one form of Court-Annexed ADR methods. In recent years, Lok Adalats are often the forum for hearing disputes related to matrimonial matters, petty property disputes, accident compensation claims and deficiencies in public services among others. While the consolidation of the Lok Adalat system does hold out the promise of inexpensive and informal dispute-resolution, some doubts continue to linger in respect of their functioning.

It is quite evident that the Legal Services Authorities need institutional support as well as trained manpower to expand their reach. While budgetary allocations are always an important consideration, the most important requirement is that of attracting an adequate number of personnel who will be motivated enough to administer Lok Adalats, to provide legal advice and to conduct legal literacy programmes. The experience of the last few years has made it clear that reliance on sitting and retired judges as well as practitioners by itself is not enough to expand the reach of the legal services movement. What is needed is a mass mobilization of individuals who may not have legal education, but the inclination as well as capability to serve as paralegals. We must recognise the fact that access to legal education is limited to a certain segment of the population and even amongst the pool of legal aid lawyers and law students, not everyone will be motivated enough to offer their services on a voluntary basis. After all legal aid programmes must respond to local needs which are best articulated by persons belonging to the very same communities. In this respect, we have recently established a committee which will

oversee the training of paralegals, with a special emphasis on improving legal literacy through grassroots activities.

At the same time, we must also remember that the overall objective of providing legal aid is not only that of ensuring access to remedies but also to prevent disputes in the future. One strategy for preventing disputes is to improve awareness about legal rights and remedies, so that individuals can safeguard their interests in the course of their routine lives. In this context, the NALSA as well as some of the State Authorities have launched programmes to spread awareness about the content of legislations such as the National Rural Employment Guarantee Act, the Maintenance and Welfare of Senior Citizens Act, the Unorganised Workers Social Security Act and the Protection of Women Against Domestic Violence Act among others. This educative dimension of the legal aid movement can deliver results only if there is meaningful collaboration between the Legal Services Authorities and local self-government institutions as well as Non-Governmental Organisations (NGO's) working in the rural areas.

The Legal Aid movement is indeed at the crossroads today. The agenda for improving access to justice bears a direct correlation to socio-economic inequalities. At one level, social distinctions based on caste, class, gender and ethnicity impede the ability of citizens to approach the judicial system. At the same time, the limited reach of the judicial system further creates the conditions for more inequality since the oppressed sections are unable to seek redress for their injuries and grievances. It is in recognition of these persistent

problems that we must chart out our steps for strengthening the legal aid movement.

Thank You!
